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<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	09/782,353	DANIELS, MARTIN	
	Examiner	Art Unit	
	Ghassem Alie	3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to an interview conducted on 12/30/06.
2. ☒ The allowed claim(s) is/are 1.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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| <ol style="list-style-type: none"><li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li><li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li><li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date _____</li><li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li></ol> | <ol style="list-style-type: none"><li>5. <input type="checkbox"/> Notice of Informal Patent Application</li><li>6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date <u>12/30/06</u> .</li><li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li><li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li><li>9. <input type="checkbox"/> Other _____</li></ol> |
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### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a communication with John G. Chupa (Reg. No. 33,483) on 13/30/06. The application has been amended as follows:

In claim 1, "A metal stud cutter comprising a first support member; a stud reception member which is perpendicularly attached to the first support member; and a handle member which is attached to the first support member and which includes a pair of severing members." has been changed to

--A cutter comprising a first support member having a first thick portion and a second thicker portion, side first support member having a first longitudinal axis of symmetry;

a metal stud reception portion which has a rectangular cross sectional area, said metal stud portion is coupled to said second thicker portion and has a second longitudinal axis of symmetry which is perpendicular to said first longitudinal axis of symmetry, said metal stud reception portion having first and second opposed ends and further includes first and second substantially identical feet respectively coupled to the first and second opposed ends, said first and second feet are perpendicular to the second longitudinal axis of symmetry;

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a serpentine-shaped handle having a third thick portion which is movably coupled to the first thick portion and a forth hand held thick portion which projects substantially above and away from the first support member;

said cutter further comprises first and second substantially identical cutting members, each of the first and second cutting members includes a substantially L-shaped sharp edged engagement member which at one end is movably attached to the third thick portion of the serpentine handle and the at other end pivotally attached to the first support member, said substantially L-shaped sharp edged engagement member of the first cutting member is operatively positioned along a first side of the stud reception member and the substantially L-shaped sharp edged engagement member of the second cutting member is positioned along a second side opposite to the first side of the stud reception member,

and wherein a downward movement of the forth thick portion of the serpentine handle towards the first thick portion of the first support member causing the first and second cutting members to move downwardly toward the second thicker portion, thereby causing the first and second cutting members to simultaneously move together, thereby allowing the substantially identical L-shaped shaped sharp edged engagement members to cooperatively and selectively cut a metal stud as the substantially L-shaped engagement members move toward one another.--.

Claims 2-8 and 12-15 have been cancelled.

***Reasons for Allowance***

2. The following is an examiner's statement of reasons for allowance: The claim is allowable because prior art fails to teach that the first and second identical cutting members

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are respectively positioned on first and second opposite sides of the stud reception member, and the cutting members having a substantially L-shaped sharp edged engagement members which each at one end is attached to a third thick portion of a serpentine-shaped handle and at other end attached to the first support member, as set forth in claim 1.

Regarding the claim, Bushaw (1,850,314), Mendenhall (634,304), or Maillez (4,625,607) teaches a cutter including a first support member, a handle, first and second cutting members, and a stud reception member. However, Bushaw, Mendenhall, and Maillez fails to teach that the first and second identical cutting members are respectively positioned on first and second opposite sides of the stud reception member, and the cutting members having a substantially L-shaped sharp edged engagement members which each at one end is attached to a third thick portion of a serpentine-shaped handle and at other end attached to the first support member, as set forth in claim 1.

None of these references by themselves or in combination with the other prior art cited teach the claimed invention set forth in claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'B.D. Ashley', is positioned above the printed name.

BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER

GA/ga

December 30, 2006